

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: November 20, 2019

MICHAEL RAY,

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UNPUBLISHED

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Petitioner,

*

Case No. 16-1388V

*

v.

*

Special Master Dorsey

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Damages Award; Proffer; Tetanus Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA).

*

*

Respondent.

*

Leah V. Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.
Ryan D. Pyles, United States Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On October 24, 2016, Michael Ray (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“the Program”).² Petitioner alleged that as a result of a tetanus vaccine administered on January 6, 2016, petitioner suffered a shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. On December 17, 2018, the undersigned issued a decision finding that petitioner was entitled to compensation.

On November 20, 2019, respondent filed a Proffer on Award of Compensation (“Proffer”). In the Proffer, respondent represented that petitioner agrees with the proffered award. Proffer at 1. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

¹ Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa.

Pursuant to the terms stated in the attached Proffer, the undersigned awards petitioner:

- (1) A lump sum payment of \$127,504.46, in the form of a check made payable to petitioner. The total amount includes \$125,000.00 for pain and suffering, and past unreimbursed expenses totaling \$2,504.46.**

Proffer at 1.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** herewith.³

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

**THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

MICHAEL RAY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 16-1388V

Special Master Nora Beth Dorsey
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On December 17, 2018, the Court entered a Ruling on Entitlement, finding petitioner entitled to compensation. Respondent now proffers that petitioner receive an award of a lump sum of **\$127,504.46** in the form of a check payable to petitioner.¹ This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.²

Petitioner agrees with the proffered award of \$127,504.46.³

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

¹ The total amount includes \$125,000.00 for pain and suffering, and past unreimbursed expenses totaling \$2,504.46.

² Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

³ This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
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s/ RYAN D. PYLES
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Dated: November 20, 2019